

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:08-cr-175

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

JEREMY E. LEWIS,

Defendant.

:

ORDER

This case is before the Court on three motions from Defendant Jeremy Lewis.

In the first he seeks to amend “his previously filed Rule 60(d)(1) Independent Action in Equity; Actual Innocence” filing. (ECF No. 285, PageID 1935.) What Lewis is apparently referring to is ECF No. 282 which he labeled “independent action,” but which the Magistrate Judge pointed out is not independent at all, but a filing in his criminal case. As the Magistrate Judge has previously pointed out, an “independent” action would have to be filed in a separate civil case and, because Lewis is a prisoner, would be subject to collection of the full filing fee under the Prison Litigation Reform Act (“PLRA”) (Report, ECF No. 284). The first Motion is denied as moot.

In his second Motion (ECF No. 286), he seeks leave to proceed *in forma pauperis*, but does not attach the Application for that status required by the PLRA. The second Motion is denied because it does not comply with the PLRA.

In his third Motion he asks for an “independent” civil docket (ECF No. 287). The Clerk is hereby ORDERED to furnish Lewis with a complete pro se prisoner packet for filing an independent action.

Recognizing that Lewis has very limited funds and will be required to pay the full filing fee, the Magistrate Judge repeats his warning from the prior Report: this Court is not authorized to grant relief from a criminal judgment in an “independent” action under Fed. R. Civ. P. 60(d). If Lewis disregards this advice and files the 60(d) action anyway, the Court will be obliged to collect the full filing fee, but cannot grant the relief Lewis wants. The Magistrate Judge suggests Lewis may wish to consider filing for habeas corpus relief under 28 U.S.C. § 2241, without any suggestion that will be more fruitful; such a petition has only a \$5.00 filing fee instead of \$400.

December 27, 2017.

s/ ***Michael R. Merz***
United States Magistrate Judge